

UNITED STATES DISTRICT COURT for the MIDDLE DISTRICT OF TENNESSEE

James King-Holmes,

Plaintiff,

v.

Endeavor Business Media, LLC

Defendant.

Docket No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff James King-Holmes (“King-Holmes” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Endeavor Business Media, LLC (“Endeavor Business” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of a person holding a white, three-dimensional model with repeating pentagons, owned and registered by King-Holmes, a professional photographer. Accordingly, King-Holmes seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in Tennessee.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. King-Holmes is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 24 Digging Lane, OX13 5LY Fyfield, Abingdon, UK

6. Upon information and belief, Endeavor Business Media is a limited liability company duly formed and registered under the laws of the State of Delaware with a place of business at 331 54th Ave. North, Nashville, TN 37209. Endeavor Business Media is duly registered under the laws of the State of Tennessee as a foreign limited liability company authorized to transact business in the State of Tennessee. At all times material, hereto, Endeavor Business Media has owned and operated a website at the URL: www.laserfocusworld.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. King Holmes photographed a person holding a white, three-dimensional model with repeating pentagons (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. King-Holmes is the author of the Photograph and has at all times been the sole owner of all right, title, and interest in and to the Photograph, including the copyright thereto.

10. The Photograph was registered with the United States Copyright Office and was given registration number VA 1-960-603.

B. Defendant's Infringing Activities

11. On February 5, 2018, Endeavor Business Media ran an article on the Website entitled *Motion Considerations in Laser-Micro-Sintering Applications*. See:

https://img.laserfocusworld.com/files/base/ebm/lfw/image/2018/02/articleimage1_1501ils_jff_6_fig1.png?auto=format&w=720. The article featured the Photograph. A screenshot of the

Photograph on the article is attached hereto as Exhibit B.

12. Endeavor Business Media did not license the Photograph from Plaintiff for its article, nor did Endeavor Business Media have Plaintiff's permission or consent to publish the Photograph on its Website.

FIRST CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST ENDEAVOR BUSINESS MEDIA)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Endeavor Business Media infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Endeavor Business Media is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Endeavor Business Media have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Endeavor Business Media be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: March ___, 2021

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